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DEC 23 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Robert L. Olender *
James A. Koerner

December 23, 1999

Of Counsel
Robert Bennett Lubic*

*not admitted in MD

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals, TW-A325
445 Twelfth Street, S.W.
Washington, DC 20554

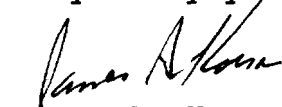
Re: MM Docket No. 99-318

Dear Ms. Salas:

On behalf of Associated Christian Television System, Inc., there are transmitted herewith an original and four (4) copies of its Comments in response to the Notice of Proposed Rule Making in the above-referenced docket.

Should additional information be necessary in connection with this matter, please communicate with this office.

Very truly yours,


James A. Koerner,
Counsel for
Associated Christian Television
System, Inc.

cc: Mr. D. Scott Turpie
Mr. Niel Atkinson
Mr. Claud Bowers

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Before the
Federal Communications Commission
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

ORIGINAL

In the Matter of)	
)	
Amendment of Section 73.622(b),)	MM Docket No. 99-318
Table of Allotments,)	RM-9745
Digital Television Broadcast Stations.)	
(Panama City, Florida))	

To: Chief, Video Services Division

**COMMENTS OF ASSOCIATED CHRISTIAN
TELEVISION SYSTEM, INC.**

Associated Christian Television System, Inc. ("ACTS"), by its attorneys, hereby submits its Comments in response to the Notice of Proposed Rule Making ("NPRM") in the above-captioned matter, released November 1, 1999.

ACTS is the licensee of WACX-LP, Channel 9, Tallahassee, Florida. As demonstrated in the attached Engineering Statement, the proposal advanced by Waitt License Company of Florida, Inc. ("Waitt") will adversely impact WACX-LP.

Nowhere in the Petition for Rulemaking does Waitt advance any public interest -- as opposed to some private interest -- reason for substituting Channel 9 for Channel 29 as the DTV channel to be paired with Waitt's existing NTSC Channel 28. The Petition simply notes that Channel 9 will work and that it can be collocated with Channel 28.

Implicit in Waitt's argument is that Channel 29 cannot be collocated with Channel 28. As noted in the attached Engineering Statement, not only can Channel 28 and Channel 29 be collocated, but the DTV Table of Allotments contains no fewer than 190 such adjacent channel allotments. Thus, the channel adjacency provides no reason for requiring substitution.

The citation to J. S. Kelly, L.L.C., 13 FCC Rcd. 23632 (MM Bur. 1998) is disingenuous at best and misleading at worst. There the applicant sought a temporary waiver of the television duopoly rule. The collocation requested was not only of the applicant's own analog and digital facilities, but also of the digital facilities of other television stations in the market. In any event, as noted above, there is no reason Waitt cannot collocate its existing analog facility and the presently allotted digital channel.

Further, the Engineering Statement asserts that a channel change is not needed to replicate the present Channel 28 service area. Indeed, Waitt does not even suggest that this is a reason for the requested substitution.

In short, there are no public interest reasons for making the substitution. On the other hand, there are public interest reasons for denying the request and maintaining the status quo.

On November 29, 1999, the Community Broadcasters Protection Act of 1999 was signed. Under it, certain low power television stations have the opportunity to become Class A stations, and thus receive protection against interference from full power television stations. ACTS fully intends to pursue this opportunity for WACX-LP. Assuming its success, the proposal advanced by Waitt could not be effectuated since it would cause interference. Congress has recognized the important public service provided by community television stations, and has sought to provide them with some measure of protection. The action requested by Waitt would disserve the public interest.

Even if the Community Broadcasters Protection Act did not exist, the FCC has independently recognized the service provided by low power stations. In the Sixth Report and Order in MM Docket No. 87-268, released April 21, 1997, the Commission stated that "it is desirable to take certain steps to minimize the impact on those stations." (para. 142) The Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, released February 23, 1998, reiterates this concern. While the Commission rejected the idea of wholesale changes in the DTV Table to protect low power stations, and stated that requests by low power stations to modify the DTV Table would generally be denied unless the full power licensee concurred in the requested change, it urged full power licensees to work with low power stations to minimize disruption. No such attempt was made by Waitt. The Petition for Rulemaking lists a number of full power television stations which could, theoretically, be affected, but not a single low power station is considered.

There is no public interest reason supporting the channel substitution. However, there are good and sufficient public interest reasons to deny the request and leave Channel 29 as the DTV channel for Waitt. ACTS requests that the Petition be denied.

Respectfully submitted,

**ASSOCIATED CHRISTIAN
TELESIVION SYSTEM, INC.**

December 23, 1999

By: _____


James A. Koerner
Its Attorney

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**EXHIBIT E
ENGINEERING STATEMENT
IN SUPPORT OF COMMENTS
IN OPPOSITION TO THE NOTICE
OF PROPOSED RULE MAKING IN
MM DOCKET NO. 99-318**

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Prepared by
Lohnes and Culver Washington, D.C.
December, 1999

**EXHIBIT E
ENGINEERING STATEMENT
IN SUPPORT OF COMMENTS
IN OPPOSITION TO THE NOTICE
OF PROPOSED RULE MAKING IN
MM DOCKET NO. 99-318**

INTRODUCTION

This statement was prepared on behalf of Associated Christian TV System, Inc. ("ACTS"), licensee of low power television (LPTV) station WACX-LP, Channel 9, Tallahassee, Florida. It supplies technical information in support of comments in opposition to the Commission's *Notice of Proposed Rule Making* (NPRM) in MM Docket No. 99-318 concerning the substitution of Channel 9 for Channel 29c at Panama City, Florida in the Commission's *Digital Television Table of Allotments*. The NPRM was initiated by a *Petition for Rule Making* filed by Waitt License Company of Florida, Inc. ("Waitt"), licensee of television broadcast station WPGX, NTSC Channel 28, Panama City, Florida. Waitt requested in its petition that Channel 9 be substituted for Channel 29c as the assigned pairing for the licensed facility of WPGX on adjacent NTSC Channel 28 for the transition to digital television.

The licensed facility of WACX-LP on Channel 9 is in jeopardy of being displaced as a result of Waitt's proposal to substitute Channel 9 for Channel 29c at Panama City. It is believed that the displacement of WACX-LP would be inappropriate since the LPTV station meets the statutorily-established qualifications for a primary status "Class A" license under the *Community Broadcasters Protection Act of 1999* that was signed into law on November 29, 1999. It is presumable that the Commission will grant WACX-LP a

“certification of eligibility” to apply for a Class A license and that under this designation the service area of WACX-LP will be afforded protection against interference. The proposal to allot Channel 9 at Panama City is predicted to result in interference to the service area of WACX-LP and is therefore inconsistent with the *Community Broadcasters Protection Act of 1999*.

DISPLACEMENT OF WACX-LP

WACX-LP operates on Channel 9 in Tallahassee, Florida and is located 120.4 kilometers from the reference location of the proposed Channel 9 allotment at Panama City. The reference facilities of the proposed Channel 9 allotment are far superior to the facilities needed for replication of the paired NTSC operation of WPGX on Channel 28. It is obvious that the proposed allotment will result in the displacement of WACX-LP on Channel 9 since the LPTV station is located well within the specified DTV co-channel distance separation of 260 kilometers for displacement relief in Section 73.3572(a)(2)(iii) of the FCC Rules.

The proposed allotment on Channel 9 at Panama City is not appropriate since it will impact the low power operation of WACX-LP. The Commission in its *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order* in MM Docket No. 87-268 indicated that all requests for modification of the DTV Table will be reviewed for their impact on low power stations. The present allotment of Channel 29c at Panama City is within the core and does not impose a negative impact on LPTV operations. Waitt’s petition does not offer any technical justification as to why the present Channel 29c

allotment is not acceptable for replication of the licensed NTSC Channel 28 operation of WPGX. It is stated in Waitt's petition, "the proposed Channel 9 allotment specifies operation from the same site as the current WPGX operation" and it is further implied that the collocation of the analog and digital facilities of WPGX is consistent with the public interest since there is no need to modify an existing tower or construct a new tower and adjacent channel interference concerns are ameliorated. Since Waitt recognizes that the collocation of analog and digital facilities reduces the potential for adjacent channel interference, it is assumed that there are no technical issues concerning the collocation of the current allotment on Channel 29c with the licensed operation of WPGX on NTSC Channel 28.

UPPER ADJACENT CHANNEL INTERFERENCE DTV INTO NTSC

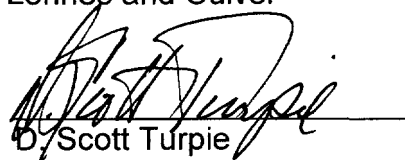
The DTV facilities for the present Channel 29c allotment can be collocated with the licensed NTSC Channel 28 operation of WPGX. The *Final Technical Report* of the Advisory Committee on Advance Television Service (1995) concluded that upper adjacent interference DTV into NTSC can be avoided using precision carrier offset between the DTV pilot and the NTSC color subcarrier. In addition, the Commission created 190 channel pairings where the DTV allotment is one channel above the analog station. All 190 allotments are indicated in the DTV Table by the "c" designation.

SUMMARY

Waitt's proposal to substitute Channel 9 for Channel 29c at Panama City is not needed for the conversion of WPGX to DTV. The present allotment on Channel 29c can be collocated with the licensed operation on NTSC Channel 28 without concern of upper

adjacent DTV into NTSC interference by maintaining the appropriate offset between the pilot carrier frequency of the DTV signal and the visual carrier frequency on the lower adjacent channel analog operation. Since Waitt has provided no justification for making the proposed channel substitution and considering that the Commission's current policy regarding the impact on low power television, the proposed channel change at Panama City is not necessary and should be denied. Moreover, WACX-LP is awaiting a Commission grant of "certification of eligible" to apply for a Class A license that will require the service area of WACX-LP to be protected against interference, which may result in the dismissal of Waitt's petition to substitute Channel 9 for Channel 29c at Panama City.

Respectfully submitted,
Lohnes and Culver



D. Scott Turpie

December, 1999

CERTIFICATE OF SERVICE

I, Molly M. Parezo, a secretary in the law offices of Koerner & Olender, P.C., do hereby certify that a copy of the foregoing **“Comments of Associated Christian Television System, Inc.”** was served this 23rd day of December, 1999, via first class mail, postage prepaid upon the following:

Lawrence Bernstein, Esq.
1818 N Street, N.W.
Suite 700
Washington, D.C. 20036


Molly M. Parezo